IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

MONDAY, THE 1ST JANUARY 2007 / 11TH POUSHA, 1928

Crl.MC.No. 1 of 2007()

CC.252/2003 of JUDL.MAGISTRATE OF FIRST CLASS COURT, TIRUR
CRIME NO.10/2003 OF KUTTIPPURAM POLICE STATION

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PETITIONER: ACCUSED.

SULAIMAN S/O.MAMMICHAN, AGED 35
CHIRAKKODE, ATHIPOTA, PALAKKAD.

BY ADV. SRI.JACOB SEBASTIAN

RESPONDENTS: COMPLAINANT.

STATE OF KERALA REP. BY THE PUBLIC
PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.K.A. AKBAR

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 1.1.2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

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Crl.M.C.No. 1 of 2007

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Dated this the 1st day of January, 2007

O R D E R

The petitioner faces indictment in a prosecution under Sections 279, 337 and 304A I.P.C. The case was registered as early as in 2003. Cognizance has already been taken. Consequent to non-availability of the petitioner, the learned Magistrate has issued non-bailable warrant against the petitioner. Steps under Section 82 and 83 are also pending, it is reported. The learned counsel for the petitioner submits that the petitioner is absolutely innocent. The matter has been settled between the parties. The petitioner was not available as he was employed abroad. He is now available in India. He wants to surrender before the learned Magistrate. He apprehends that his application for bail may not be considered by the learned Magistrate on merits, in accordance with law and expeditiously. It is in these circumstances prayed that appropriate directions may be issued to release the petitioner on bail and to expeditiously dispose of the case against him. It is his further contention that summons was never served on him and the non-bailable warrant has been

issued without and before giving him any intimation about the pendency of the case.

2. It is certainly for the petitioner to appear before the learned Magistrate and explain to the learned Magistrate the circumstances under which he could not earlier appear before the learned Magistrate. I have no reason to assume that the learned Magistrate would not consider the application for bail on merits, in accordance with law and expeditiously. Every court must do the same. No special or specific direction appears to be necessary. Sufficient general directions have already been issued by this Court in the decision in **Alice George** v. **Dy.S.P. of Police** (2003 (1) KLT 339). The offences are non-compoundable. The learned counsel for the petitioner submits that the matter has been settled. I need only mention that the learned Magistrate must make every endeavour to dispose of the case expeditiously, the same having been filed as early as in 2003.

3. This Crl.M.C. is accordingly dismissed, but subject to the above observations/directions. I may hasten to observe that if the petitioner appears before the learned Magistrate and applies for bail after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass orders on merits, in accordance with law

and expeditiously - on the date of surrender itself unless there are compelling reasons.

(R. BASANT)
Judge

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